

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 21, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

YUKI LEE, in her capacity as personal
representative of the Estate of her
deceased husband, JOOCHAN LEE,
individually and Decedent's surviving
wife, and in her capacity as Guardian of
their minor daughter, A.L. both as
beneficiaries and heirs of Decedent's
estate,

Plaintiffs,

v.

THE MOODY BIBLE INSTITUTE OF
CHICAGO, an Illinois corporation,
Defendant.

No. 2:19-CV-00326-SAB

**ORDER DENYING
DEFENDANT'S MOTION FOR
RECONSIDERATION;
DENYING PLAINTIFFS'
MOTION TO AMEND
COMPLAINT**

Before the Court are Defendant's Motion for Reconsideration, ECF No. 48,
and Plaintiffs' Motion for Leave to File First Amended Complaint, ECF No. 49.
The motions were considered without oral argument.

Background

The facts and procedural history of this case are not particularly relevant to
the current motion and the parties are familiar with the background with the case.
Thus, they are only briefly summarized here.

**ORDER DENYING DEFENDANT'S MOTION FOR RECONSIDERATION;
DENYING PLAINTIFFS' MOTION TO AMEND COMPLAINT # 1**

1 Plaintiff Yuki Lee is the widow of Joochan (“Austen”) Lee. Mr. Lee was an
2 enrolled student in Defendant’s aviation program in Spokane, seeking a degree in
3 Aviation Technology as a pilot. On July 13, 2018, Mr. Lee was killed during one
4 of Defendant’s training flights when the plane struck a bird and crashed.

5 On August 29, 2019, Ms. Lee and her minor daughter, A.L.—both on behalf
6 of Mr. Lee’s estate, but also as beneficiaries and heirs to Ms. Lee’s estate—filed a
7 Complaint against Defendant in Spokane County Superior Court, alleging claims
8 for negligence and *res ipsa loquitur*. ECF No. 2. Defendant removed the action to
9 federal court based on diversity jurisdiction on September 24, 2019. ECF No. 1.

10 Defendant filed its Motion for Summary Judgment on January 10, 2022.
11 ECF No. 36. The Court issued an Order Denying Defendant’s Motion for
12 Summary Judgment on April 18, 2022. ECF No. 47.

13 Defendant filed its Motion for Reconsideration on May 16, 2022. ECF No.
14 48. Plaintiffs filed their Motion for Leave to File First Amended Complaint on
15 May 25, 2022. ECF No. 49.

16 Defendant’s Motion for Reconsideration

17 Defendant requests reconsideration of the Court’s Order Denying
18 Defendant’s Motion for Summary Judgment, ECF No. 47. Defendant argues that
19 the Court’s Order committed clear error by finding that Defendant owed Mr. Lee a
20 duty akin to that of a common carrier and that the Moody Aviation Agreement was
21 void as against public policy.

22 Reconsideration is an “extraordinary remedy, to be used sparingly in the
23 interests of finality and conservation of judicial resources.” *Kona Enterprises, Inc.*
24 *v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). A motion for
25 reconsideration may be reviewed under either Federal Rule of Civil Procedure
26 59(e) (motion to alter or amend a judgment) or 60(b) (relief from judgment). *Sch.*
27 *Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993). “A district court
28 may properly reconsider its decision if it ‘(1) is presented with newly discovered

**ORDER DENYING DEFENDANT’S MOTION FOR RECONSIDERATION;
DENYING PLAINTIFFS’ MOTION TO AMEND COMPLAINT # 2**

1 evidence, (2) committed clear error or the initial decision was manifestly unjust, or
2 (3) if there is an intervening change in controlling law.” *Smith v. Clark Cnty. Sch.*
3 *Dist.*, 727 F.3d 950, 955 (9th Cir. 2013) (quoting *Sch. Dist. No. 1J*, 5 F.3d at 1263).
4 “There may also be other, highly unusual, circumstances warranting
5 reconsideration.” *Sch. Dist. No. 1J*, 5 F.3d at 1263. Whether to grant a motion for
6 reconsideration is within the sound discretion of the court. *Navajo Nation v.*
7 *Confederated Tribes and Bands of the Yakima Nation*, 331 F.3d 1041, 1046 (9th
8 Cir. 2003).

9 The Court denies Defendant’s motion. Defendant has not presented newly
10 discovered evidence or an intervening change in the controlling law. Defendant has
11 also not shown that the Court committed clear error or that the initial decision was
12 manifestly unjust.

13 **Plaintiffs’ Motion for Leave to File First Amended Complaint**

14 Plaintiffs request that the Court grant them leave to amend their Complaint
15 so they can add a claim for gross negligence. Defendant objects to Plaintiff’s
16 request to amend because they argue that the addition of the gross negligence claim
17 is “baseless,” “unfounded,” and unsupported by deposition testimony and factual
18 discovery. Additionally, Defendant argues that the addition of the gross negligence
19 claim, nearly three years into the litigation, is unfairly prejudicial.

20 The primary basis for Plaintiffs’ motion is that their “proposed amendment
21 conforms to significant new evidence regarding a birdstrike as revealed in the
22 NTSB report.” ECF No. 49 at 3. However, NTSB published its report on October
23 28, 2020. *Id.* at 2. Plaintiffs do not offer any explanation as to why they waited
24 nearly 19 months after receiving the NTSB report before filing a motion to amend
25 their Complaint. Plaintiffs’ delay in bringing their motion is even more notable
26 given that the parties have already completed expert discovery and engaged in
27 substantial litigation on the issue of Defendant’s alleged negligence. Thus, the
28 Court denies Plaintiffs’ motion.

**ORDER DENYING DEFENDANT’S MOTION FOR RECONSIDERATION;
DENYING PLAINTIFFS’ MOTION TO AMEND COMPLAINT # 3**

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Defendant's Motion for Reconsideration, ECF No. 48, is **DENIED**.

3 2. Plaintiffs' Motion for Leave to File First Amended Complaint, ECF
4 No. 49, is **DENIED**.

5 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to file
6 this Order and provide copies to counsel.

7 **DATED** this 21st day of June 2022.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

13 Stanley A. Bastian
14 Chief United States District Judge
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